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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,123	04/13/2004	Nianci Han	003330 P01/ETCH/METAL/MD	6448
61285 7590 09/07/2007 JANAH & ASSOCIATES, P.C. 650 DELANCEY STREET, SUITE 106 SAN FRANCISCO, CA 94107			EXAMINER LAVILLA, MICHAEL E	
			ART UNIT 1775	PAPER NUMBER
			MAIL DATE 09/07/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/824,123

**Applicant(s)**

HAN ET AL.

**Examiner**

Michael La Villa

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 3 August 2007 (RCE).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 25-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 28-33 and 41-43 is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-10, 12, 25-27, and 34-40 is/are rejected.
- 7) ☒ Claim(s) 5 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3 August 2007 has been entered.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:
3. The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. Claims 38-40 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The Specification, at page 8, lines 16-26, refers to specific aluminum and zirconium species, namely, metal and metal oxide species. It is unclear how the more broadly conceptualized structure having any aluminum and zirconium species is taught by the originally filed disclosure or is otherwise supported by the originally filed disclosure.

**Claim Rejections - 35 USC § 102/103**

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:
6. A person shall be entitled to a patent unless –
  - a. the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
  - b. the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
7. (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.
8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - a. A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
  10. Determining the scope and contents of the prior art.
  11. Ascertaining the differences between the prior art and the claims at issue.
  12. Resolving the level of ordinary skill in the pertinent art.
  13. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. Claims 1-4, 6-10, 12, 25-27, and 34-37 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Morita et al. USPA 2002/0012791. Morita et al. teaches a YAG coated substrate used in a processing chamber, wherein the YAG is plasma resistant. See Morita (Abstract; Figure 2; paragraphs 1, 2, 4, 7, 8, 13-15, 43-45, and 90). While the coating layer of Morita et al. is applied with a sintered composition, electroplated layers could encompass the structural and compositional characteristics of the coating layer of Morita et al., particularly in view of the lack of claimed processing parameters. It is unclear that other structural or compositional features are achieved by the claimed product-by-process limitations that can distinguish over the prior art. As such, the claims encompass structures and compositions that are identical to or substantially identical to those of the prior art, and so rejection is appropriate. Morita et al. may not exemplify a processing chamber having aluminum alloy components. It would have been obvious to one of ordinary skill in the art at the time of the invention to use the coated substrates of Morita et al. in quintessential processing chambers including those with aluminum alloy components as Morita et al. teaches use of the coated substrate of Morita in this manner is effective. In this configuration, the coated substrate may be deemed to function as a liner or wall of the apparatus.

***Response to Amendment***

15. In view of applicant's amendments, the claim objection and the section 112, second paragraph rejection of the Office Action mailed on 5 April 2007 are moot and therefore withdrawn.
16. In view of applicant's amendments and arguments, applicant traverses the section 102/103 rejection and the section 103 rejection over Morita of the Office Action mailed on 5 April 2007. Applicant argues that Morita does not teach a component comprising metal because the substrate of Morita is alumina. Alumina comprises aluminum which is a metal. Hence, the component of Morita comprises metal, even if it would not be characterized as a metal component. Moreover, the component of Morita, when used, would be attached to a processing chamber, which would be expected to comprise metal components. Rejection is maintained.
17. In view of applicant's amendments and arguments, applicant traverses the section 102/103 rejection over Murakawa of the Office Action mailed on 5 April 2007. Rejection is withdrawn.
18. In view of applicant's amendments and arguments, applicant traverses the section 102/103 rejection over O'Donnell of the Office Action mailed on 5 April 2007. Rejection is withdrawn.
19. In view of applicant's amendments and arguments, applicant traverses the section 102/103 rejection over Takeuchi of the Office Action mailed on 5 April 2007. Rejection is withdrawn.

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20. In view of applicant's amendments and arguments, applicant traverses the section 102/103 rejection over Otsuki of the Office Action mailed on 5 April 2007. Rejection is withdrawn.

***Allowable Subject Matter***

21. Claims 28-33 and 41-43 are allowed.
22. Claims 5 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael La Villa whose telephone number is (571) 272-1539. The examiner can normally be reached on Monday through Friday.
24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer McNeil can be reached on (571) 272-1540. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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25. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael La Villa  
29 August 2007

  
MICHAEL E. LAVILLA PH.D.  
PRIMARY EXAMINER